

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06MC9-MU

IN THE ARBITRATION OF:

KERRY R. HICKS,
Claimant,

vs.

THE CADLE COMPANY, BUCKEYE
RETIREMENT CO., LLC, LTD,
WILLIAM E. SHAULIS, and DANIEL C.
CADLE,
Respondents.

ORDER

This matter is before the court upon motion of nonparties Tamara Massey, Alice Byrd, Stowe Query, and Bank of America to quash certain subpoenas issued to them and for a protective order barring the discovery Respondents seek. The subpoenas were issued to Massey, Byrd, and Query directing their appearance at prehearing depositions and directing them to produce Bank of America documents. In COMSTAT Corp. v. National Science Foundation, 190 F.3d 269 (4th Cir. 1999), the Fourth Circuit held that arbitrators (and district courts acting in aid of arbitration) do not have authority to issue subpoenas to nonparties for prehearing depositions or documents production. Moreover, Respondents fail to show any special need or hardship, or any “extraordinary circumstances” which might permit a court to compel pre-arbitration discovery. See id. at 276; Deiulemar Compagnia Di Navigazione S.p.A. v. M/V Allegra, 198 F.3d 473, 481 (4th Cir. 1999). Accordingly,

IT IS THEREFORE ORDERED that the Motion to Quash is hereby GRANTED.

Signed: March 1, 2006



Graham C. Mullen
United States District Judge

